



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-5230/1  
MPG:skw

## 2021 ASSEMBLY BILL 983

February 15, 2022 - Introduced by Representative RAMTHUN. Referred to  
Committee on Campaigns and Elections.

- 1     **AN ACT** *to renumber and amend* 7.54; and *to create* 5.45 and 7.54 (2) of the  
2             statutes; **relating to:** audits of contested elections and election nullification.

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### *Analysis by the Legislative Reference Bureau*

Under current law, in all contested election cases, a contesting party has the right to have the ballots opened and to have all errors of the election inspectors, either in counting or refusing to count any ballot, corrected by the board of canvassers or court deciding the contest. The ballots and related materials may be opened only in open session and in the presence of the official having custody of them.

Under this bill, in a contested election in which the difference between the votes cast for the winning candidate and the votes cast for the runner-up candidate is equal to or greater than the total number of absentee ballots cast in the contest, as determined by the administrator of the Elections Commission, each contesting party has the additional right to a full forensic physical and cyber audit of the election that is conducted by an independent and nonpartisan auditing firm approved by the standing committees of the legislature with jurisdiction over election matters and that includes all of the following:

1. A complete examination of electronic voting machines and systems, including to the extent applicable, browsers; tabulators; scanners; routers and firewalls; switches; network and out-of-band management cards; internet or network connectivity; network and remote access; remote access applications; evidence showing that software was installed or removed on the machine or system; flash drives; thumb drives; event logs; scripts that have been run; the date on which data were last modified and what data were modified, whether during or after the

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election; systems and security updates; password policies; multifactor authentication; databases; adjudication records; administrator accounts; and log-in records.

2. A complete examination, including by using kinematic artifact detection, of all physical ballots, including whether ballots meet industry standards with respect to out-of-calibration measurements, and including, to the extent applicable, examination of ballot thickness to prevent bleed-through, the types of markers used for purposes of marking ballots, ballot chain of custody, the number of ballots cast in the election in comparison with the number of voters, whether absentee ballot standards were met, and ballot watermarks and dot coding.

3. A physical canvass, and an examination of whether county clerks and election officials, including volunteers, followed election rules and regulations mandated by their county.

4. Measures to ensure transparency, including broadcasting audit proceedings by live stream on the Internet.

Additionally, under the bill, if, after an audit conducted as specified above with respect to any contested election, the Elections Commission, attorney general, or district attorney having jurisdiction over the matter determines that a violation of the laws relating to election threats, bribery, or fraud occurred, the contested election is null and void, and if any candidate for elected office in the election has since assumed office, the office is vacated. In such a case, the bill requires the governor to order a new election, which must take place no later than 30 days after the date of that determination.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 5.45 of the statutes is created to read:

2           **5.45 Election nullification.** (1) If, after an audit conducted under s. 7.54 (2)  
3 (a) with respect to any contested election, the commission, attorney general, or  
4 district attorney having jurisdiction over the matter determines that a violation of  
5 the laws under s. 12.09, 12.11, or 12.13 occurred with respect to that contest, the  
6 contested election shall be null and void, and if any candidate for elected office in the  
7 contested election has since assumed that office, the office is vacated.

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1           **(2)** If a determination is made under sub. (1), the governor shall order a new  
2 election, which shall take place no later than 30 days after the date of that  
3 determination.

4           **SECTION 2.** 7.54 of the statutes is renumbered 7.54 (1) and amended to read:

5           7.54 **(1)** CONTESTED ELECTIONS. In all contested election cases, ~~the~~ each  
6 contesting ~~parties have~~ party has the right to have the ballots opened, and examined  
7 as provided under sub. (2) (a) when applicable under sub. (2) (b), and to have all  
8 errors of the inspectors, either in counting or refusing to count any ballot, corrected  
9 by the board of canvassers or court deciding the contest. The ballots and related  
10 materials may be opened only in open session of the board of canvassers or in open  
11 court and in the presence of the official having custody of them.

12           **SECTION 3.** 7.54 (2) of the statutes is created to read:

13           7.54 **(2)** (a) In all contested election cases for elections satisfying par. (b), each  
14 contesting party has the right to a full forensic physical and cyber audit of the  
15 election that is conducted by an independent and nonpartisan auditing firm  
16 approved by the standing committees of the legislature with jurisdiction over  
17 election matters and that includes all of the following:

18           1. A complete examination of electronic voting machines and systems,  
19 including to the extent applicable, browsers; tabulators; scanners; routers and  
20 firewalls; switches; network and out-of-band management cards; internet or  
21 network connectivity; network and remote access; remote access applications;  
22 evidence showing that software was installed or removed on the machine or system;  
23 flash drives; thumb drives; event logs; scripts that have been run; the date on which  
24 data were last modified and what data were modified, whether during or after the  
25 election; systems and security updates; password policies; multifactor

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1 authentication; databases; adjudication records; administrator accounts; and log-in  
2 records.

3 2. A complete examination, including by using kinematic artifact detection, of  
4 all physical ballots, including whether ballots meet industry standards with respect  
5 to out-of-calibration measurements, and including, to the extent applicable,  
6 examination of ballot thickness to prevent bleed-through, the types of markers used  
7 for purposes of marking ballots, ballot chain of custody, the number of ballots cast  
8 in the election in comparison with the number of voters, whether absentee ballot  
9 standards were met, and ballot watermarks and dot coding.

10 3. A physical canvass, and an examination of whether county clerks and  
11 election officials, including volunteers, followed election rules and regulations  
12 mandated by the county.

13 4. Measures to ensure transparency, including broadcasting audit proceedings  
14 by live stream on the Internet.

15 (b) Paragraph (a) applies only if the difference between the votes cast for the  
16 candidate with the most votes in a contest and the votes cast for the runner-up  
17 candidate in the contest is equal to or greater than the total number of absentee  
18 ballots cast in the contest, as determined by the commission administrator.

19 (END)